



03-04-03

1745

Date: March 3, 2003 Label No. EV122923530US

I hereby certify that, on the date indicated above, I deposited this paper with identified attachments and/or fee with the U.S. Postal Service and that it was addressed for delivery to the Assistant Commissioner for Patents, Washington, DC 20231 by "Express Mail Post Office to Addressee" service.

Ashley Smith
Name (Print)

Ashley Smith
Signature

AP
3.11.03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:)

Jameel MENASHI)

Art Unit: 1745

Application Number: 09/833,202)

Filed: April 11, 2001)

Examiner: Raymond ALEJANDRO

For: FUEL CELLS AND OTHER PRODUCTS CONTAINING MODIFIED CARBON PRODUCTS)

**RESPONSE TO RESTRICTION REQUIREMENT/
ELECTION OF SPECIES REQUIREMENT**

Assistant Commissioner for Patents
Washington, D.C. 20231

RECEIVED
MAR - 7 2003
C 1703 MAIL ROOM

March 3, 2003

Sir:

This Response to Restriction Requirement/Election of Species Requirement is in response to the Office Action dated February 5, 2003, for which the Examiner has set a one-month period for response, thus making the response due on or before March 5, 2003.

In the Office Action, the Examiner sets forth a Restriction Requirement wherein the Examiner is requesting the applicants to elect a single group for examination purposes. In particular, the Examiner is requesting that applicants elect between Group I, encompassing claims 1-10 and 14, drawn to fuel cells, or Group II, encompassing claims 1-13 and 15-16, drawn to methods of forming an active layer or electrolyte membrane with a modified carbon product.

The applicants elect, with traverse, the subject matter of Group I, directed to claims 1-10 and 14. The applicants believe that the remaining subject matter set forth in Group II should be examined at this time as well. According to M.P.E.P. §803, if there is no serious burden on the Examiner, the Examiner must examine all of the claims at the same time, even if the claims are directed to different inventions. Since it would appear that there is no serious burden on the

Response To Restriction Requirement
U.S. Patent Application No. 09/833,202

Examiner and that a search can easily be achieved with respect to Group I and Group II at the same time, the applicants believe that the Examiner should proceed with examining all subject matter at this time. Accordingly, the Examiner is respectfully requested to withdraw the Restriction Requirement.


At page 3 of the Office Action, the Examiner sets forth an Election of Species Requirement wherein the Examiner has requested that the applicants elect between Species I and Species II. Species I relates to the electrode comprising the modified carbon whereas Species II relates to the solid electrolyte membrane comprising the modified carbon. The applicants elect with traverse Species I directed to an electrode comprising the modified carbon.

As with the Restriction Requirement, the applicants believe that all species should be examined at the same time and that there is no need to have an Election of Species Requirement. At a minimum, the Examiner shall proceed with examination of each species, upon the allowance of a generic claim.

The Examiner is encouraged to contact the undersigned by telephone should there be any remaining questions.

If there are any fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 03-0060. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

Respectfully submitted,


Luke A. Kilyk
Reg. No. 33,251

Atty. Docket No. 01023(3600-344-01)
KILYK & BOWERSOX, P.L.L.C.
53 A East Lee Street
Warrenton, VA 20186
Tel: (540) 428-1701
Fax.: (540) 428-1720